Reg. No. K. 107

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XIII] Trivandrum, Wednesday, 6th March 1968 / 16th Phalguna 1889 [No. 58

GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 13775-H2|67|Law. *Dated, Trivandrum, 6th March, 1968| 16th Phalguna, 1889.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the President on the 5th day of March, 1968.

By order of the Governor,

P. K. Lakshmanan,
Law Secretary.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1968.

ACT 8 OF 1968

THE KERALA RE-ENACTING ACT, 1968

An Act to re-enact certain Acts enacted by the President for the State of Kerala.

Preamble.—WHEREAS it is expedient to re-enact certain Acts enacted by the President for the State of Kerala in exercise of the power of the Legislature of that State to make laws;

BE it enacted in the Nineteenth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala Re-enacting Act, 1968.

2. *Re-enactment of certain Acts.*—The Acts mentioned in the First Schedule are hereby re-enacted with the modifications specified therein.

3. *Repeals.*—The Acts mentioned in the Second Schedule are hereby repealed.

THE FIRST SCHEDULE

(*See* section 2)

THE KERALA ABKARI LAWS (AMENDMENT AND VALIDATION) ACT, 1964

(1 of 1964)

Omit "Enacted by the President in the Fifteenth Year of the Republic of India.".

For the paragraph beginning with "In exercise of the powers" and ending with "the President is pleased to enact as follows:—", substitute—

"*Preamble.*—WHEREAS it is expedient further to amend the Cochin Abkari Act, I of 1077, and the Abkari Act (Travancore Act IV of 1073), and to validate the levy and collection of duty on liquor and intoxicating drugs made under the said Acts;

BE it enacted as follows:—".

THE KERALA REVENUE RECOVERY LAWS (AMENDMENT) ACT, 1964

(2 of 1964)

Omit "Enacted by the President in the Fifteenth Year of the Republic of India.".

For the paragraph beginning with "In exercise of the powers" and ending with "the President is pleased to enact as follows:—", substitute—

"*Preamble.*—WHEREAS it is expedient to amend the Madras Revenue Recovery Act, 1864, as in force in the Malabar area of the State of Kerala and the Travancore-Cochin Revenue Recovery Act, 1951;

BE it enacted as follows:—".

THE KERALA STATE LEGISLATURE (CONTINUANCE OF THE USE OF ENGLISH LANGUAGE) ACT, 1965

(1 of 1965)

Omit "Enacted by the President in the Fifteenth Year of the Republic of India.".

For the paragraph beginning with "In exercise of the powers" and ending with "the President is pleased to enact as follows:—", substitute—

"*Preamble.*—WHEREAS it is expedient to provide for the continued use of the English language for transaction of business in the Legislature of the State of Kerala;

BE it enacted as follows:—".

THE KERALA BUILDINGS (LEASE AND RENT CONTROL) ACT, 1965

(2 of 1965)

AS AMENDED BY ACT 7 OF 1966

Omit "Enacted by the President in the Sixteenth Year of the Republic of India.".

For the paragraph beginning with "In exercise of the powers" and ending with "the President is pleased to enact as follows:—", substitute—

"*Preamble.*—WHEREAS it is expedient to regulate the leasing of buildings and to control the rent of such buildings in the State of Kerala;

BE it enacted as follows:—".

Section 31.—For sub-section (6), substitute—

"(6) Every rule made under this Act and every notification issued under section 25 shall be laid as soon as may be after it is made or issued before the Legislative Assembly for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative

Assembly makes any modification in the rule or notification or decides that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.".

THE KERALA ELECTRICITY DUTY (VALIDATION) ACT, 1965

(3 of 1965)

Omit "Enacted by the President in the Sixteenth Year of the Republic of India.".

For the paragraph beginning with "In exercise of the powers" and ending with "the President is pleased to enact as follows:—", substitute—

"*Preamble.*—WHEREAS it is expedient to validate the levy and collection of duty on sales of electrical energy under the Travancore-Cochin Electricity Duty Act, 1950;

BE it enacted as follows:—".

THE KERALA SALES TAX (LEVY AND VALIDATION) ACT, 1965

(4 of 1965)

Omit "Enacted by the President in the Sixteenth Year of the Republic of India.".

For the paragraph beginning with "In exercise of the powers" and ending witb "the President is pleased to enact as follows:—", substitute—

"*Preamble.*—WHEREAS it is expedient to provide for the levy of a tax on the purchase of copra and cashewnut kernel and to validate the levy and collection of such tax;

BE it enacted as follows:—".

THE KERALA KHADI AND VILLAGE INDUSTRIES BOARD (AMENDMENT) ACT, 1965

(5 of 1965)

Omit "Enacted by the President in the Sixteenth Year of the Republic of India.".

For the paragraph beginning with "In exercise of the powers" and ending with "the President is pleased to enact as follows:—", substitute—

substitute—

"*Preamble.*—WHEREAS it is expedient to amend the Kerala Buildings (Lease and Rent Control) Act, 1965, for the purposes hereinafter appearing;

BE it enacted as follows:—".

Section 1.—Omit sub-section (2).

Omit sections 2 to 9 (both inclusive).

THE KERALA COURT FEES AND SUITS VALUATION (AMENDMENT) ACT, 1966

(8 of 1966)

Omit "Enacted by the President in the Seventeenth Year of the Republic of India.".

For the paragraph beginning with "In exercise of the powers" and ending with "the President is pleased to enact as follows:—", substitute—

"*Preamble.*—WHEREAS it is expedient to amend the Kerala Court Fees and Suits Valuation Act, 1959, for the purposes hereinafter appearing;

BE it enacted as follows:—".

THE KERALA PREVENTION OF EVICTION ACT, 1966

(12 of 1966)

Omit "Enacted by the President in the Seventeenth Year of the Republic of India.".

For the paragraph beginning with "In exercise of the powers" and ending with "the President is pleased to enact as follows:—", substitute—

"*Preamble.*—WHEREAS it is expedient to provide for the prevention of eviction of cultivating tenants, holders of kudiyiruppus and kudikidappukars from their holdings, kudiyiruppus or kudikidappus, as the case may be, in the State of Kerala and for the restoration in certain cases of the possession thereof and for matters connected therewith;

BE it enacted as follows:—".

Section 5.—In sub-section (4), in clause (b), omit "or" at the end.

THE KERALA LAND RELINQUISHMENT (AMENDMENT) ACT, 1966

(13 of 1966)

Omit "Enacted by the President in the Seventeenth Year of the Republic of India.".

For the paragraph beginning with "In exercise of the powers" and ending with "the President is pleased to enact as follows:—", substitute—

"Preamble.—WHEREAS it is expedient further to amend the Kerala Land Relinquishment Act, 1958, for the purposes hereinafter appearing;

BE it enacted as follows:—".

THE KERALA ESSENTIAL ARTICLES CONTROL (TEMPORARY POWERS) CONTINUANCE ACT, 1967

(1 of 1967)

Omit "Enacted by the President in the Seventeenth Year of the Republic of India.".

For the paragraph beginning with "In exercise of the powers" and ending with "the President is pleased to enact as follows:—", substitute—

"Preamble.—WHEREAS it is expedient to continue the Kerala Essential Articles Control (Temporary Powers) Act, 1961, for a further period;

BE it enacted as follows:—".

THE KERALA COURT OF WARDS ACT, 1967

(3 of 1967)

Omit "Enacted by the President in the Eighteenth Year of the Republic of India.".

For the paragraph beginning with "In exercise of the powers" and ending with "the President is pleased to enact as follows:—", substitute—

"Preamble.—WHEREAS it is expedient to consolidate and amend the law relating to court of wards in the State of Kerala;

BE it enacted as follows:—".

THE KERALA PREVENTION AND CONTROL OF ANIMAL DISEASES ACT, 1967

(4 of 1967)

Omit "Enacted by the President in the Eighteenth Year of the Republic of India.".

For the paragraph beginning with "In exercise of the powers" and ending with "the President is pleased to enact as follows:—", substitute—

"*Preamble.*—WHEREAS it is expedient to consolidate and amend the law relating to the prevention and control of diseases affecting animals in the State of Kerala;

BE it enacted as follows:—".

THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1967

(5 of 1967)

Omit "Enacted by the President in the Eighteenth Year of the Republic of India.".

For the paragraph beginning with "In exercise of the powers" and ending with "the President is pleased to enact as follows:—", substitute—

"*Preamble.*—WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963, for the purposes hereinafter appearing;

BE it enacted as follows:—".

THE SECOND SCHEDULE

(*See* section 3)

1. The Madras Preservation of Private Forests (Amendment) Act, 1965 (6 of 1965).
2. The Kerala Re-enacting Act, 1966 (1 of 1966).
3. The Kerala University (Amendment) Amendment Act, 1966 (11 of 1966).
4. The Kerala University (Amendment) Amendment Act, 1967 (2 of 1967).

GOVERNMENT OF KERALA
1968

Reg. No. K. 107

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EXTRAORDINARY

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Legislature Secretariat

NOTIFICATION

No. 1303|LA4|68. *Dated, Trivandrum, 6th March 1968.*

The following Bill together with the Statement of Objects and Reasons, and the Memorandum regarding Delegated Legislation, is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

V. P. N. Nambudiri,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1968.

(L. A. Bill No. 20 of 1968)

THE KERALA PUBLIC BUILDINGS (EVICTION OF UNAUTHORISED OCCUPANTS) BILL, 1968

A

BILL

to provide for the eviction of unauthorised occupants from public buildings and for matters connected therewith.

Preamble.—WHEREAS it is expedient to provide for the eviction of unauthorised occupants from public buildings and for matters connected therewith;

BE it enacted in the Nineteenth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Public Buildings (Eviction of Unauthorised Occupants) Act, 1968.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "estate officer" means an officer appointed as such by the Government under section 3;

(b) "local authority" means a municipal corporation, a municipal council, a township committee, a panchayat or any other authority by whatever name called, constituted under any law for the time being in force for the purpose of local self-government;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "public building" means any building or part of a building belonging to, or taken on lease or requisitioned by, or on behalf of, the Government or a local authority and includes—

(i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building, and

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(e) "rent", in relation to any public building, means the consideration payable periodically for the authorised occupation of the building, and includes—

(i) any charge for electricity, water or any other services in connection with the occupation of the building,

(ii) any tax (by whatever name called) payable in respect of the building,

where such charge or tax is payable by the Government or the local authority, as the case may be;

(f) "unauthorised occupation", in relation to any public building, means the occupation by any person of the building without authority for such occupation, and includes the continuance in occupation by any person of the public building after the authority (whether by way of lease or any other mode of transfer) under which he was allowed to occupy the building has expired or has been determined for any reason whatsoever.

3. *Appointment of estate officers.*—The Government may, by notification in the Gazette,—

(a) appoint such persons, being gazetted officers of Government, as they think fit, to be estate officers for the purposes of this Act; and

(b) define the local limits within which, or the categories of public buildings in respect of which, the estate officers shall exercise the powers conferred, and perform the duties imposed, on estate officers by or under this Act.

4. *Issue of notice to show cause against order of eviction.*—(1) If the estate officer is of opinion that any persons are in unauthorised occupation of any public building and that they should be evicted, the estate officer shall issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.

(2) The notice shall—

(a) specify the grounds on which the order of eviction is proposed to be made; and

(b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interests in, the public building, to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than ten days from the date of issue thereof.

(3) The estate officer shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part

of the public building, and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.

(4) Where the estate officer knows or has reason to believe that any persons are in occupation of the public building, then, without prejudice to the provisions of sub-section (3), he shall cause a copy of the notice to be served on every such person by post or by delivering or tendering it to that person or in such other manner as may be prescribed.

5. *Eviction of unauthorised occupants.*—(1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4 and any evidence produced by such person in support of the same and after giving him a reasonable opportunity of being heard, the estate officer is satisfied that the public building is in unauthorised occupation, the estate officer may, on a date to be fixed for the purpose, make an order of eviction, for reasons to be recorded therein, directing that the public building shall be vacated by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be published by affixing it on the outer door or some other conspicuous part of the public building.

(2) If any person refuses or fails to comply with the order of eviction within thirty days of the date of its publication under sub-section (1), the estate officer or any other officer duly authorised by him in this behalf may evict that person from, and take possession of, the public building and may, for that purpose, use such force as may be necessary.

6. *Disposal of property left in public building by unauthorised occupants.*—(1) Where any persons have been evicted from any public building under section 5, the estate officer may, after giving fourteen days' notice to the persons from whom possession of the public building has been taken and after publishing the notice in at least one newspaper having circulation in the locality, remove or cause to be removed or dispose of by public auction any property left by such persons in such building.

(2) Where any property is sold under sub-section (1), the sale proceeds shall, after deducting the expenses of the sale and the amount, if any, due to the Government or the local authority, as the case may be, on account of rent payable in respect of the public building or damages payable under sub-section (2) of section 8 or costs awarded under sub-section (5) of section 10, be paid to such person or persons as may appear to the estate officer to be entitled to the same:

Provided that where the estate officer is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, he may refer such

dispute to the civil court of competent jurisdiction and the decision of the court thereon shall be final.

7. *Liability of unauthorised occupant to pay damages.*—Any person who is, or has at any time been, in unauthorised occupation of any public building shall be liable to pay for the whole period of such occupation, such damages on account of the use and occupation of such building as may be assessed by the estate officer having regard to such principles of assessment of damages as may be prescribed.

8. *Power to recover rent and damages in respect of public buildings.*—(1) Where any person is in arrears of rent payable in respect of any public building, the estate officer may, by order, require that person to pay the same within such time and in such instalments as may be specified in the order.

(2) Where any person is liable to pay damages under section 7, the estate officer may, by order require that person to pay such damages within such time and in such instalments as may be specified in the order.

(3) No order under sub-section (1) or sub-section (2) shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice why such order should not be made, and until his objections, if any, and any evidence produced by him in support of the same, have been considered by the estate officer.

9. *Power of estate officers.*—An estate officer shall, for the purpose of holding any inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) any other matter which may be prescribed.

10. *Appeals.*—(1) An appeal shall lie from every order of the estate officer made in respect of any public building under section 5 or section 8 to an appellate officer who shall be the District Judge of the district in which the public building is situate or such other judicial officer in that district, not below the rank of a Subordinate Judge, as the District Judge may designate in this behalf.

(2) An appeal under sub-section (1) shall be preferred,—

(a) in the case of an appeal from an order under section 5, within fifteen days from the date of publication of the order under sub-section (1) of that section; and

(b) in the case of an appeal from any order under section 8, within fifteen days from the date on which the order is communicated to the appellant:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of fifteen days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) Where an appeal is preferred from an order of the estate officer, the appellate officer may stay the enforcement of that order for such period and on such conditions as he deems fit.

(4) Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible.

(5) The costs of any appeal under this section shall be in the discretion of the appellate officer.

11. *Power to obtain information.*—If the estate officer has reason to believe that any persons are in unauthorised occupation of any public building, the estate officer or any other officer authorised by him in this behalf may require those persons, or any other person who, he has reason to believe, is in possession of information relating to the names and other particulars of the persons in occupations of the public building, to furnish such information within such time as may be specified in the requisition, and every person so required shall be bound to furnish the information in his possession accordingly.

12. *Liability of heirs and legal representatives.*—(1) Where any person against whom any proceeding for—

(a) the determination of arrears of rent; or

(b) the assessment of damages,

is to be, or has been, taken under this Act, dies before the proceeding is taken or during the pendency thereof, the proceeding may be taken or, as the case may be, continued against the heirs or legal representatives of that person.

(2) Any amount due to the Government or to a local authority, as the case may be, from any person whether by way of arrears of rent, damages or costs shall, after the death of that person, be payable by his heirs or legal representatives, but their liability shall be limited to the extent of the assets of the deceased in their hands.

13. *Recovery of rent, etc., as arrears of public revenue due on land.*—If any person refuses or fails to pay the arrears of rent payable under sub-section (1) of section 8 or the damages payable under sub-section (2) of that section or costs awarded to the Government or to a local authority, as the case may be, under sub-section (5) of section 10, or any portion of such rent, damages or costs, within the time, if any, specified therefor in the order relating thereto, the estate officer may issue a certificate for the amount due to the Collector of the district in which the public building is situate, who shall thereupon proceed to recover the same as arrears of public revenue due on land.

14. *Further mode of recovery.*—If the person refusing or failing to pay any of the amounts referred to in section 13 is in receipt of any salary, the estate officer may, notwithstanding the issue of a certificate to the Collector under the said section, require any person paying the salary to deduct from any payment of salary subsequent to the date of such requisition any such amount or any portion thereof as may be specified in the requisition, and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Government or the local authority, as the case may be:

Provided that any part of the salary exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (5 of 1908), shall be exempt from any requisition made under this section.

Explanation.—For the purposes of this section, "salary" includes,—

(i) wages;

(ii) any annuity or pension;

(iii) any gratuity;

(iv) any fees, commissions, honoraria or profits in lieu of or in addition to any salary or wages; and

(v) any advance of salary.

15. *Finality of orders.*—Save as otherwise expressly provided in this Act, every order made by an estate officer or appellate officer under this Act shall be final and shall not be called in question in any suit, application or execution proceeding, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

16. *Offences and penalties.*—(1) If any person who has been evicted from any public building under this Act again occupies the building without authority for such occupation, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

(2) Any Magistrate convicting a person under sub-section (1) may make an order for evicting that person summarily and he shall be liable to such eviction without prejudice to any other action that may be taken against him under this Act.

(3) If a person fails without reasonable cause or excuse to deduct and pay any amount as required under section 14, he shall be punishable with fine which may extend to ten rupees for every day during which the default continues.

(4) A person shall not be proceeded against for an offence under sub-section (3) except at the instance of the Collector of the district in which the public building is situated.

(5) The Collector may either before or after the institution of proceedings compound the offence referred to in sub-section (3).

17. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Government or a local authority or the appellate officer or the estate officer or any other officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or order made thereunder.

18. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form of any notice required or authorised to be given under this Act and the manner in which it may be served;

(b) the holding of inquiries under this Act;

(c) the distribution and allocation of work to estate officers and the transfer of any proceedings pending before an estate officer to another estate officer;

(d) the procedure to be followed in taking possession of public buildings;

(e) the manner in which damages for unauthorised occupation may be assessed and the principles which may be taken into account in assessing such damages;

(f) the manner in which appeals may be preferred and the procedure to be followed in appeals;

(g) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Government employees are being allowed to occupy Government buildings for residential purposes after getting lease deeds executed by them. There is a specific provision in the lease deed that the lessee on transfer or retirement or promotion to the

Gazetted cadre shall vacate the building within one month of the date of transfer or retirement or promotion and that the lessee may continue occupation for a maximum period of six months with the approval of the Chief Engineer or the Government. Notwithstanding such provision in the lease deed, there have been instances of persons refusing to vacate Government Quarters after the expiry of the period allowed by or under the lease deed. The only course now open to the Government to evict such persons is to have recourse to the civil courts.

2. In view of the difficulties and delays experienced in getting unauthorised occupants of Government buildings vacated through civil courts, it is considered necessary to enact a legislation for empowering certain officers of the Government to evict such unauthorised occupants without recourse to civil courts and for matters connected therewith.

3. It has been brought to the notice of Government that the various local authorities in the State are also experiencing similar difficulties in the matter of evicting their employees from buildings allotted to them. It is therefore considered that the proposed Legislation should apply to buildings of local authorities also.

4. The Bill is intended to achieve the above objects.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 18 of the Bill seeks to empower the Government to make rules for carrying out the purposes of the Act. The matters in respect of which rules may be made are, *inter alia*—

(i) the holding of inquiries under the Act;
(ii) the distribution and allocation of work to estate officers and the transfer of any proceedings pending before an estate officer to another estate officer;
(iii) the procedure to be followed in taking possession of public buildings;
(iv) the manner in which damages for unauthorised occupation may be assessed and the principles which may be taken into account in assessing such damages; and
(v) the manner in which appeals may be preferred and the procedure to be followed in appeals.

The matters in respect of which rules may be made are of a procedural and administrative nature. Besides, the rules shall be subject to scrutiny by the Legislative Assembly. The rule-making power is thus of a normal character.

T. K. DIVAKARAN.